APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/009,837	01/20/1998	RANDELL L. MILLS	9113-23US	7937

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EXAMINER
KALAFUT, STEPHEN J

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/009,837	MILLS, RANDELL L.
	Examiner	Art Unit	
	Stephen J. Kalafut	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

    A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after t he mailing date of this communication, even if timely filed, may re duce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 October 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>17-301</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>17-301</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>30 Oct 2007</u>.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 30 October 2007 has been entered.

The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

Claims 17-301, for reasons of record previously applied to claims 17-300, are rejected

under 35 U.S.C. 101 because the claimed invention lacks patentable utility. See paper no. 14,

pages 1-2.

Claims 17-301, for reasons of record previously applied to claims 17-300, are rejected

under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The

claim(s) contains subject matter which was not described in the specification in such a way as to

enable one skilled in the art to which it pertains, or with which it is most nearly connected, to

make and/or use the invention. See paper no. 14, pages 2-7.

Applicant's arguments filed 30 October 2007 have been fully considered but they are not

persuasive.

Regarding applicant's argument that the microwave-field Balmer line broadening in the

Luque *et al.* paper being allegedly six orders of magnitude too low too account for that reported

by applicant, see the Appendix to paper no. 20060502, pages 14-15.

Applicant argues that the arguments by the "Committee" concerning the difference in

profile shapes in figures 4a, 4b and 4c of Cvetanovic *et al.* are without merit. Applicant states

that he as computer-fit the data himself, which fits a Gaussian profile corresponding to Doppler

broadening. This is not persuasive because the difference in profile shape is apparent to the

naked eye, and needs no computer fitting. Also see the Appendix to paper no. 20060502, pages

9-12.

Applicant repeats his argument that Lieb disproves Krieg. Lieb does not reject the

Heisenberg uncertainty principle entirely, but instead differs with an argument that is often based

thereon. See page 555, left column, first two paragraphs. He states that "Eq. (4)" (which is on

page 554), from the Heisenberg uncertainty principle, is correct, but "it is a pale reflection of the

power of the operator $-\Delta$ to prevent collapse" (page 555, left column 4th paragraph). Lieb then

offers the Sobolev inequality as a "better uncertainty principle". Nowhere, however, does Lieb

ever allow for hydrogen atoms going below the conventionally known "ground state".

Applicant argues that one skilled in the art need only compare the equations in his theory

with those of Rathke's paper to determine if the sign of the classical wave equation is correctly

presented. It is initially pointed out that while the previous Advisory Action implied that

Rathke's paper was unavailable, it was actually the articles cited by Rathke that were not

available, rather than Rathke's paper itself. Any confusion on this matter is regretted. However,

one of the articles by applicant, from *Int. J. Hydrogen Energy*, has become available due to being

included in the IDS of 30 October 2007, thus allowing a comparison to be made. In both Rathke and applicant's article, the sign between the first character, an upside-down Greek upper case delta (Δ), and the expression $1/v^2\ \delta^2/\delta t^2$, in the classical wave equation, is minus. There is thus no evidence whatsoever that Rathke committed fraud by changing a sign. Applicant's allegation that the "Committee" is complicit in perpetrating the alleged fraud is completely without merit.

Likewise, Barth mentions the classical wave equation, but does not reproduce the equation in his article. This equation does not include any term for the coulomb force between the electron and the atomic nucleus to which it is bound.

Applicant argues that the "Committee's" argument regarding "q = 9 when p = 3" is not correct, since in the transition step 54.4 eV is transferred to the catalyst and the other 54.4 eV is emitted as a photon. Applicant appears to misunderstand the "Committee's" argument. From applicant's own formula, values of q are calculated from p^2. The square of 3 is 9, thus giving the value of q. This is not the calculation of a transition, but of the energy level of a particular value of p. Regarding the "hypothetical change of energy of q = 5" occurring when "p changes from 2 to 3", this is 3^2 - 2^2 equaling 9 - 4, which gives 5. Even assuming that part of the energy is transferred to a catalyst, the overall change is q = 5.

Applicant's attachments 115 and 116 would fall into category (4), as set out in the action of 10 February 2004, because they speculate hydrino formation as an explanation for data not necessarily caused thereby.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sjk

STEPHEN KALAFUT
PRIMARY EXAMINER
GROUP 1700